

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

GUNAPT DEVELOPMENT, LLC,)	
)	
Plaintiff,)	
)	
vs.)	
)	
PEINE LAKES, L.P., 2010 PEINE)	
ROAD LLC, CENTERLINE)	Case No: 4:20-cv-01778-CDP
CORPORATE PARTNERS XXVII LP,)	
CENTERLINE AFFORDABLE)	
HOUSING ADVISORS LLC, and)	
RELATED CORPORATE XXVI SLP,)	
LLC)	
)	
Defendants.)	

MOTION TO DISMISS

Defendants Peine Lakes, L.P.; 2010 Peine Road LLC; Centerline Corporate Partners XXVII LP; Centerline Affordable Housing Advisors LLC; and Related Corporate XXVI SLP, LLC (“**Defendants**”), by and through counsel, respectfully move the Court pursuant to Fed. R. Civ. P. 12(b)(6) and Local Rule 4.01(A) to dismiss Plaintiff Gunapt Development, LLC’s Complaint for failure to state a claim, and state as follows:

1. Count I for breach of contract must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6). Plaintiff purports to recover on a contract to which it was never a party as well as a contract where it admits its rights were assigned. Therefore, its breach of contract claims fail as a matter of law.

2. Count II for an accounting must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6). Plaintiff has alleged no fiduciary relationship, trust relationship, or underlying equitable claim, as required to state a claim for an accounting.

3. Count III for unjust enrichment must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6). Plaintiff has not identified any benefit it conferred upon Defendants so as to state a claim for unjust enrichment. In addition, an express agreement covers the subject matter, which is a separate basis for dismissing Count III.

4. Count IV for a constructive trust must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6). Plaintiff has pled no fraudulent transfer that would give rise to the imposition of a constructive trust, and the agreements at issue do not support Plaintiff's allegations that it is entitled to the Development Fee.

5. Count V for tortious interference must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6). The Complaint fails to state a claim for tortious interference as to any of the named Defendants, in that they are either parties to the agreements at issue, or their tortious conduct is not specifically identified in any of Plaintiff's allegations. Moreover, the alleged impropriety of the Defendants' conduct, alleged causation in inducing a breach, and alleged lack of justification—all elements required by Missouri law—are not supported by any factual allegations.

6. Count VI for civil conspiracy must be dismissed with prejudice for failure to state a claim under Rule 12(b)(6), because each of the underlying claims purporting to give rise to the civil conspiracy fail to state a cause of action, as set forth above and in Defendants' Memorandum in Support.

WHEREFORE, for these reasons and those listed in Defendants' Memorandum in Support, Defendants request this Court grant their Motion to Dismiss, issue an Order dismissing Plaintiff's Complaint with prejudice, and award Defendants such other and further relief as the Court deems just and proper.

January 12, 2021

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2021, the foregoing was filed with the Clerk of the Court and served on the following using the CM/ECF system:

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